

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE NATIONAL HOCKEY PLAYERS' ) CONCUSSION INJURY LITIGATION ) _____) ) ) ) DAN LaCOUTURE, DAN KECZMER, ) JACK CARLSON, RICHARD ) BRENNAN, BRAD MAXWELL, ) MICHAEL PELUSO, TOM ) YOUNGHANS, ALLAN ROURKE, and ) SCOTT BAILEY, Individually and on ) Behalf of All Others Similarly Situated, ) ) ) Plaintiffs, ) ) ) vs. ) ) ) NATIONAL HOCKEY LEAGUE, ) ) ) Defendant. ) _____)	MDL No. 14-2551 (SRN/BRT)  No. 0:14-cv-03234 (SRN/BRT) (transferred from No. 1:14-cv-02531 (S.D.N.Y.))
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**MOTION FOR LEAVE TO WITHDRAW AS COUNSEL  
FOR PLAINTIFF MICHAEL PELUSO**

The law firm of Robbins Geller Rudman & Dowd LLP, and all of its attorneys, including Stuart A. Davidson, Mark J. Dearman, Kathleen L. Douglas, Leonard B. Simon, Samuel H. Rudman, Robert M. Rothman, David A. Rosenfeld, and Mario Alba (collectively, “Robbins Geller”), respectfully move this Court, pursuant to Local Rule 83.7 of the United States District Court for the District of Minnesota, to withdraw as counsel in relation to the claims of plaintiff Michael Peluso (“Mr. Peluso”) in each of the above-captioned actions, and state as follows:

1. Robbins Geller filed the action *LaCouture v. Nat'l Hockey League*, in the United States District Court for the Southern District of New York, Case No. 1:14-cv-02531 (“*LaCouture*”). *LaCouture* was transferred to this Court pursuant to a Transfer Order of the Judicial Panel on Multidistrict Litigation (“JPML”), assigned District of Minnesota Case No. 0:14-cv-03234 (SRN/BRT), and was consolidated with the multidistrict litigation captioned *In re Nat'l Hockey League Players' Concussion Injury Litigation*, MDL No. 14-2551 (SRN/BRT) (the “MDL”). Mr. Peluso is a named plaintiff in the *LaCouture* action.

2. Following the JPML’s Transfer Order, this Court appointed Robbins Geller as one of the Co-Lead Counsel for the plaintiffs in the MDL proceedings [ECF No. 18].

3. On October 20, 2014, Co-Lead Counsel and the appointed Plaintiffs’ Steering Committee filed in the MDL a Master Administrative Long-Form and Class Action Complaint [ECF No. 28], naming six proposed class representatives, including Mr. Peluso.

4. On January 15, 2016, Co-Lead Counsel and the Plaintiffs’ Steering Committee filed in the MDL a First Amended Consolidated Class Action Complaint, naming seven proposed class representatives, including Mr. Peluso [ECF No. 351].

5. On March 29, 2016, this Court entered an Order requiring each of the proposed class representatives, including Mr. Peluso, to undergo independent medical examinations (“IMEs”), under Rule 35 of the Federal Rules of Civil Procedure [ECF No. 437].

6. On July 12, 2016, with the consent of Mr. Peluso, Stuart Davidson of Robbins Geller wrote to this Court advising, among other things, that due to Mr. Peluso’s then-existing mental state and his inability to complete the Court-ordered IMEs, “we do not intend to move the Court to appoint Mr. Peluso as one of the class representatives in this case.”

7. On October 7, 2016, Co-Lead Counsel and the Plaintiffs' Steering Committee filed in the MDL a Second Amended Consolidated Class Action Complaint, naming six proposed class representatives, **but not** Mr. Peluso [ECF No. 615].

8. On September 28, 2018, Howard Silber of the Law Offices of Howard F. Silber entered an appearance in this action on behalf of Mr. Peluso [ECF No. 992]. Mr. Silber had taken over the representation of Mr. Peluso in his California workers' compensation case from Shawn Stuckey.

9. On November 12, 2018, a proposed settlement was reached between Co-Lead Counsel and the Plaintiffs' Steering Committee on the one hand, and the NHL on the other hand, providing for, among other things, certain financial benefits, neurological testing, and potential additional financial benefits for the plaintiffs and unfiled clients of Co-Lead Counsel and the Plaintiffs' Steering Committee, subject to the NHL's ability to opt-out of the settlement if the entire group of named plaintiffs and unfiled clients do not opt into the settlement by signing the Release form.

10. Mr. Peluso has decided not to opt into the proposed settlement.

11. On February 7, 2019, Mr. Silber and his firm withdrew as counsel for Mr. Peluso, which Robbins Geller understands to be due to irreconcilable differences between Mr. Silber and Mr. Peluso. We understand that Mr. Silber also intends to withdraw from representing Mr. Peluso in his California workers' compensation case for the same reason.

12. Unfortunately, irreconcilable differences have also arisen between Mr. Peluso and Robbins Geller, necessitating this motion. Email correspondence between Robbins

Geller and Mr. Peluso demonstrate that continuing the attorney-client relationship will serve neither the interests of the Court, Mr. Peluso, nor Robbins Geller.

13. Robbins Geller has made its professional best efforts to maintain the attorney-client relationship with Mr. Peluso. But it is clear that no possibility exists of a continuing attorney-client relationship between Robbins Geller and Mr. Peluso. *See, e.g., Sanford v. Maid-Rite Corp.*, 816 F.3d 546, 549 (8th Cir. 2016) (reversing district court’s denial of motion to withdraw as counsel and noting that “withdrawal is presumptively appropriate” where attorney shows good cause and notifies his or her client of the motion) (internal quotation and citation omitted); *see also State v. Krause*, 817 N.W.2d 136, 149 (Minn. 2012) (in criminal case where right to counsel is constitutionally required, Minnesota Supreme Court explained that good cause exists for withdrawal of counsel “in cases in which a defendant has threatened the life of his counsel or engaged in a pattern of threatening and abusive behavior”).

14. Robbins Geller and its attorneys should be allowed to withdraw from any further representation of Mr. Peluso. Robbins Geller properly notified Mr. Peluso of its intention to withdraw from representing him in this matter. Specifically, Mr. Davidson emailed Mr. Peluso on February 19, 2019, advising Mr. Peluso of Robbins Geller’s intention of withdrawing as his counsel in the above-captioned matters. Robbins Geller also served a copy of this motion and proposed order on Mr. Peluso at his last-known address:

3456 Fairfax Lane  
Woodbury, MN 55129

15. Robbins Geller will promptly advise Mr. Peluso of the date, time, and location of any scheduled hearing on this motion, and will promptly serve Mr. Peluso with any Order with respect to the same.

WHEREFORE, for good cause shown herein, Robbins Geller respectfully requests this Court for leave to withdraw as counsel for Michael Peluso in Case Numbers MDL No. 14-2551 (SRN/BRT) and 0:14-cv-03234 (SRN/BRT).

Dated February 19, 2019

By: s/ Stuart A. Davidson  
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